

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ROBERT L. WHITTAKER,

Plaintiff,

v.

SHARON OWENS,

Defendant.

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No. 4:21-cv-00549 SRW

MEMORANDUM AND ORDER

Before the Court is plaintiff's request for twenty-one (21) day extension of time to personally serve defendant Sharon Owens in this matter. Plaintiff's request for extension will be granted. However, unless good cause is shown, no other extensions of time will be granted in this matter.

Plaintiff commenced this action in this Court on May 10, 2021, and he filed an amended complaint in this case on November 8, 2021. On November 17, 2021, the Court allowed process to issue pursuant to 28 U.S.C. § 1915A on defendant Dr. Susan Unknown, a Corizon employee.¹ Plaintiff was ordered to serve defendant Dr. Susan Unknown no later than February 15, 2022. However, on December 2, 2021, plaintiff filed a motion to amend his complaint.² The Court denied plaintiff's motion to amend his complaint; however, it granted plaintiff's request to substitute defendant Sharon Owens for Dr. Susan Unknown. The Court issued summons to plaintiff on behalf of Dr. Sharon Owens, an employee of Corizon, Inc. on that same date. Plaintiff was ordered to serve Dr. Sharon Owens no later than February 15, 2022.

¹Because plaintiff, a prisoner, paid the full filing fee in this action, he is responsible for service of process pursuant to 28 U.S.C. § 1915A.

²Because plaintiff's amended complaint contained claims and parties previously dismissed by this Court in its Memorandum and Order and Order of Partial Dismissal entered on November 17, 2021, the Court denied plaintiff's request to amend his complaint. However, plaintiff's request to substitute defendant Sharon Owens for Dr. Susan Unknown was granted.

On January 27, 2022, plaintiff moved for a thirty-day (30) extension of time to effectuate service of process on defendant Sharon Owens. Plaintiff stated that although he had acted with due diligence, the ongoing Covid-19 pandemic had hindered his attempts to serve defendant Owens. On January 31, 2022, the Court granted plaintiff's motion for extension of time for service of process on defendant Owens. Plaintiff was ordered to serve defendant Owens no later than March 2, 2022.

On March 3, 2022, the Court issued a Rule 4(m)³ Order in this action, notifying plaintiff that this case would be dismissed within twenty-one (21) days if he failed to timely show that defendant Owens had been served. Instead of showing that he had effectuated service on defendant Owens, plaintiff filed a motion for extension of time to serve defendant, on March 11, 2022, indicating that he had turned service over to the Sheriff of St. Francois County. Plaintiff claims that once the Sheriff's Office completes service, plaintiff will be informed and will forward the notice to the Court.

The Court will provide plaintiff one last extension of time to show proof that defendant Owens has been served in accordance with Federal Rule of Civil Procedure 4. To show proof of service, he must file with the Court the return of summons (executed summons) within twenty-one (21) days of the date of this Memorandum and Order. Plaintiff's failure to effect service within a timely manner will likely result in a dismissal of this action, without prejudice, unless good cause is shown.

³Federal Rule of Civil Procedure 4(m).

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for a twenty-one (21) day extension of time to serve defendant [ECF No. 26] is **GRANTED**.

IT IS FURTHER ORDERED that, no later than twenty-one (21) days from the date of this Order, plaintiff shall file a return of summons showing that defendant Owens was properly served.

IT IS FURTHER ORDERED that, in the absence of good cause shown, plaintiff's failure to file a return of summons showing proper service on defendant Owens shall result in the dismissal of this action, without prejudice, pursuant to Rule 4 of the Federal Rules of Civil Procedure.

Dated this 15th day of March, 2022.

/s/ *Stephen R. Welby*
STEPHEN R. WELBY
UNITED STATES MAGISTRATE JUDGE